

REMARKS

Claims 1-9 and 11-16 are pending in the present application. Claim 10 has been canceled, and claims 1-3, 5-9, 11, and 13-16 have been amended herein. No new matter has been added. Applicants respectfully request reconsideration of the claims in view of the following remarks.

As an initial matter, Applicants note that U.S. Patent Application Publication No. 2005/0073954 (“Bodin”) was cited in the Office Action, but was not listed on the Notice of References Cited. Applicants respectfully request a Notice of References cited be provided showing this reference.

Claims 9 and 10 have been rejected under 35 U.S.C. § 101 as assertedly being directed to non-statutory subject matter. Applicants have amended claim 9 and canceled claim 10 and, as a result, respectfully request that the rejections of claims 9 and 10 be withdrawn.

Claims 1-16 have been rejected under 35 U.S.C. § 102(e) as assertedly being anticipated by U.S. Patent Application Publication No. 2004/0082338 (hereinafter “Norrgard”). Applicants respectfully traverse these rejections.

Applicants’ claim 1 recites, “performing . . . end-to-end measurements between nodes . . . , the end-to-end measurements providing timing information of traffic flowing between the nodes in said data network,” and “combining said end-to-end measurements and said obtained information of the network topology into a first information set,” and “detecting correlated and uncorrelated paths using the first information set.” The Office Action asserted that paragraphs [0028] and [0054] of Norrgard disclose the performing end-to-end measurements and that paragraph [0055] of Norrgard discloses the combining of the end-to-end measurements and the

network topology information and detecting correlated and uncorrelated paths. Applicants respectfully disagree.

Paragraph [0028] merely states that an object of the invention disclosed in Norrgard is to provide “appropriate end-to-end QoS.” This does not disclose, nor does it require, that the end-to-end measurements are made or needed. Furthermore, end-to-end QoS may be addressed on a per-hop basis. Applicants have further noted that Applicants have amended claim 1 to recite, “the end-to-end measurements providing timing information of traffic flowing between the nodes in said data network.” Paragraph [0028] fails to disclose these limitations.

Furthermore, paragraph [0055] fails to disclose combining the end-to-end measurements and the information of the network topology. The Office Action asserted, “The call admission control is path-sensitive, i.e. the NRM checks that resources are available along the path that will be used by the traffic concerned by a resource request.” Office Action, page 4. Applicants are unsure regarding exactly what in Norrgard the Office Action is asserting are the end-to-end measurements of Applicants’ claims. From the above statement contained in the Office Action, it appears that the Office Action may be asserting that availability of resources along the path is the end-to-end measurements. Applicants disagree and assert that this interpretation is contrary to the use of the term in the art as well as the specification. “During patent examination, the pending claims must be ‘given their broadest reasonable interpretation *consistent with the specification*.’” MPEP § 2111 (citations omitted, emphasis added). Nevertheless, Applicants have amended claim 1 to clarify that “the end-to-end measurements provid[e] timing information of traffic flowing between the nodes in said data network.”

Applicants further note that the Office Action appears to misinterpret the “transferring” step of Applicants’ claim 1. The transferring requires one of two scenarios: (1) transferring of

network topology from the NRM to the measurement manager; or (2) transferring of the end-to-end measurements from the measurement manager to the NRM. Which of these actions is the Office Action asserting is shown in Norrgard? Applicants respectfully request additional information regarding the pertinence of Norrgard.

“The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.” 37 C.F.R. § 1.106(b). “The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.” MPEP § 706. While Applicants have attempted to respond to the rejections, Applicants assert that a subsequent action cannot be made final due to the lack of clarity and specificity as required by the rules and the MPEP, thereby allowing Applicants to adequately respond.

In particular, Applicants respectfully request additional information regarding how and where Norrgard discloses:

the measurement manager;

the NRM;

the measurements considered to be the end-to-end measurements;

transferring of network topology from the NRM to the measurement manager;

transferring of the end-to-end measurements from the measurement manager to

the NRM; and

where the end-to-end measurements are combined with the network topology.

In view of the above remarks, Applicants respectfully request that the rejection of claim 1 be withdrawn. Claims 2-9 and 11-16 depend from and add further limitations to claim 1. It is

respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Roger C. Knapp, Applicants' attorney, at 972-732-1001, so that such issues may be resolved as expeditiously as possible. The Commissioner is hereby authorized to charge any fees due, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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Date

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